

Performance Objectives And Instructional Cues	OUTLINE AND PRESENTATION
<p>Title of Instruction: OHV Legal Update</p> <p>Time Allotted: 3 hours Target Group: Law Enforcement Officers</p> <p>Instructors: General Police Instructor</p> <p>Method of Instruction: Lecture, Discussion</p> <p>Date: TBA</p> <p>INSTRUCTIONAL GOAL: The student will increase their understanding of new laws and regulations governing OHV's.</p> <p>INSTRUCTIONAL OBJECTIVES: At the end of this block of instruction the Student will be able to:</p> <ol style="list-style-type: none"> 1. Understand and apply the OHV laws and amendments. 2. Present the appropriate penalty assessments options to violations of the OHMV laws <p>MATERIALS PowerPoint Projector PowerPoint Presentation</p> <p>HANDOUTS OHV law Regulation Title 18 Chapter 15 Part 3 OHV Cheat Sheet with penalty assessments</p> <p>TIME ALLOCATION OHV Laws & Regulations 3 hours</p> <p>BIBLIOGRAPHY 66-3-1000 through 66-3-1021 NMSA Regulation Title 18 Chapter 15 Part 3 Amendments to OHV laws</p>	

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	OHV Legal Update Lesson Plan
Slide 1	<p>BLOCK 1-Introduction (15 minutes)</p> <ol style="list-style-type: none"> 1. State goal of Class: The student will increase their understanding laws and regulations governing the use of OHV's.
Slide 2	<ol style="list-style-type: none"> 2. State objectives that students will be required to meet: <ul style="list-style-type: none"> • Provide the public with information on how to register an OHV and the associated costs. • Know and understand the laws applying to OHV riders under the age of 18. • Know and understand the laws applying to the operation of OHV on both public and private property. • Analyze OHV related laws for their specific meaning and elements. • Form principles of application of the law to a set of facts.
Slide 3	<ol style="list-style-type: none"> 3. Why are we reviewing the OHV Act? OHV violations are occurring statewide – in every enforcement jurisdiction. Officer need to be able to deter these violations and properly deal with violators.
	BLOCK 2- OHV ACT (2 3/4 hours)
Slide 4	DEFINITIONS 66-3-1001.1 Amended
Slide 5	<ul style="list-style-type: none"> A. "Board" means the off-highway vehicle Advisory Board B. "Department" means The Department of Game and Fish C. "Division" means the Motor Vehicle Division D. "Fund" means the Trail Safety Fund
Slide 6	<ul style="list-style-type: none"> E. "Off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or roads, and includes
Slide 7	<ul style="list-style-type: none"> 1. "all terrain vehicle" which means a motor vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less on three or more low pressure tires and having an seat designed to be straddled by the operator and handlebar-type steering control;
	<ul style="list-style-type: none"> 2. "Off highway motor cycle" means a motor vehicle traveling on not more than 2 tires and having a seat designed to be straddled by the operator and that has a handle bar type steering control.
	<ul style="list-style-type: none"> 3. "snowmobile" which means a motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low pressure tires;

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Slide 8	<p>4. "recreational off-highway vehicle", which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:</p> <ul style="list-style-type: none"> • a steering wheel for steering control • non-straddle seating; • maximum speed capability greater than thirty-five mph • gross vehicle weight rating no greater than one thousand seven hundred and fifty pounds
Slide 9	<ul style="list-style-type: none"> • less than eighty inches in overall width, exclusive of accessories; • engine displacement of less than one thousand cc's; and • identification by means of a seventeen-character vehicle identification number; or
Slide 10	<p>Is a Golf Cart an OHV? No, electric motor (does not meet all of the above).</p>
Slide 11	<p>5. By rule of the department, any other vehicle that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes;</p>
Slide 12	<p>F. "staging area" means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and G. "unpaved road" means a dirt graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public.</p>
Slide 13	<p>4. 66-3-1003 OFF HIGHWAY MOTOR VEHICLES; REGISTRATION</p> <p>A. "Unless exempted from the provisions of the Off-Highway Motor Vehicle Act, a person shall not operate an off-highway motor vehicle unless the Off-highway motor vehicle has been registered in accordance with Chapter 66, Article 3 NMSA 1978. The owner shall affix the validating sticker as provided for in Chapter 66, Article 3 NMSA1978."</p>
Slide 14	<p>B. NM residents, New Mexico requires mandatory registration for all OHVs used on public lands and display of a validation decal or plate.</p> <p>C. Non Residents, New Mexico requires all OHV riders from out of state to be permitted on public lands and display a validation decal.</p>
Slide 14	<p>5. 66-3-1004 REGISTRATION CERTIFICATE AND NONRESIDENT PERMIT FEES—RENEWAL—DISTRIBUTION OF FEES</p>

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Slide 15 Pass out memo	<p>A. As of January 1, 2006, people have been required to register or permit all OHV's. OHV's include ATV's, snowmobiles, and off-highway motor cycles and now it also includes recreational off highway vehicles Also known as mules, and others like them</p> <p>B. Residents must register the OHV with MVD and pay \$17 fee for 2 year registration and up to \$40 (currently \$30.00 + \$1.00 clean & beautiful fee) for an off highway user fee per OHV. Funds will be deposited in the Motor vehicle suspense fund AVANTAGE – RESIDENTS GET A TITLE</p> <p>C. OHV registration and permits must be renewed every 2 years or upon change of ownership to another NM resident.</p> <p>D. Non-residents can get either a 90 day permit for \$18 or a 2-year Permit for an OHV that is registered is up to \$48. NON-RESIDENTS DO NOT GET TITLE</p> <p>Non-residents in 32 states have the ability to operate here in New Mexico without purchasing an OHV non-resident permit if that person: <i>is currently in compliance with another state's off-highway vehicle registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence...(66-3-1004.C NMSA 1978).</i></p> <p>Operation on Public Lands requires:</p> <ol style="list-style-type: none"> 1) OHV operator has OHV registration or current user fee (both are not needed) 2) OHV operator has proof of this that is current and valid. <p>E. Duplicate registration cost of \$7.50</p>

Slide 16

Alabama	Hawaii	Mississippi	South Carolina	West Virginia
Alaska	Illinois	Nebraska	South Dakota	
Florida	Kansas	Nevada	Tennessee	
Georgia	Kentucky	North Carolina	Virginia	

A non-resident with an OHV from one of these states must purchase either the 2 year non-registered permit sticker for \$48.00 or the 90 day

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Slide 16	<p>permit sticker for \$18.00 prior to operate on New Mexico's public lands; or be in compliance with another state's similar program.</p> <p>Can a person from TX have a CO Off-Highway permit ride in NM? Yes</p> <p>Can a person from NM have a CO Off-Highway permit ride in NM? Yes</p>
Slide 17	<ul style="list-style-type: none"> . Registration and user fee permitting for residents <ul style="list-style-type: none"> A. will be done through MVD B. NM's Non-resident OHV Sticker is the equivalent of registration & includes user fee. C. Non-resident permits will be sold at Department of Game and Fish offices & New Mexico Tourism offices at state border.
Slide 18, 19 HO Memo 10/30/09	<p>6.) 66-3-1005 Exemptions-</p> <p>Act does not apply to persons who operate OHV's on privately held lands or to OHV's that are:</p> <ul style="list-style-type: none"> A. Owned and operated by an agency or department of the US this state or a political subdivision of this state. B. Operated exclusively on lands privately held; provided that the appropriate tax or fee has been paid in lieu of the motor vehicle registration fees C. Owned by a non-resident and used in this state only for organized and endorsed competition purposes; provided that the use is not on a rental basis. D. Brought into the state by manufacturers or distributors for wholesale purposes and not used for demonstrations. E. In the possession of dealers as stock-in-trade and not used for demonstration purposes. F. Farm tractors or special mobile equipment or OHV's used for agricultural operations <ul style="list-style-type: none"> 1. Could not cite a rancher checking stock or waters even if he was operating on public land or public roads? No – its an agriculture operation. 2. Could you cite the same rancher for hauling game from a hunting area on public land? Yes – not agriculture but recreational. 3. Is guiding hunters on a unit wide tag part of an agricultural operation? No G. Used exclusively on private closed courses whether owned by the rider or another person as long as appropriate taxes have been paid.
Slide 20	<p>7.) 66-3-1006 Grounds for refusing Registration or Certificate or Title</p>

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Slide 21	<p>A. People can be refused a registration certificate or title under certain circumstances.</p> <p>B. Most of this will be done by MVD and should not affect the field.</p> <p>8.) 66-3-1010 Licensing (Driver's License) Drivers of OHV's do not have to be licensed.</p>
Slide 22	<p>9.) 66-3-1010.1. OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING</p> <p>ORGANIZATION--APPROVAL AND CERTIFICATION.--</p> <p>A. An off-highway motor vehicle safety training organization that offers and conducts an off-highway motor vehicle safety training course shall be approved and certified by the department. Applicants for approval and certification shall submit an application to the department for consideration.</p> <p>B. The department may approve and certify an organization that meets the minimum criteria established by the department for an off-highway motor vehicle safety training organization. Each approval and certification shall be renewed annually."</p>
Slide 23	<p>10.) 66-3-1010.2 NMSA 1978 (being Laws 2005, Chapter 325, Section 10) is amended to read: "66-3-1010.2. OFF-HIGHWAY MOTOR VEHICLE SAFETY PERMIT- REQUIREMENTS--ISSUANCE.—</p> <p>A. A person under the age of eighteen shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission.</p> <p>B. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the department.</p> <p>C. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization."</p>
Slide 24	<p>11.) 66-3-1010.3 Operation and equipment-Safety Requirements</p> <p>A. A person shall not operate on OHV:</p> <ol style="list-style-type: none"> 1. In a careless, reckless or negligent manner as to endanger the person or property of another. (It is okay to endanger yourself.)

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Slide 25	<ul style="list-style-type: none"> • Careless is operating a vehicle in a careless, inattentive or imprudent manner without due regard for width, grade, curves, corners, traffic, weather, road conditions and all other attendant circumstances. • Reckless is a person who drives any vehicle carelessly and heedlessly in willful and wanton disregard of the rights or safety of others and without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property.
Slide 26	<p>2. While under the influence of an intoxicating liquor or drugs as provided by section 66-8-102 (DWI Statute).</p>
Slide 27	<p>3. While in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission. Does not mean it is against the law to use an ATV as transportation while hunting? No</p>
Slide 28	<p>4. in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition</p> <p>5. On or within an earthen tank or other structure meant to water livestock or wildlife, unless the OHV is on a route designated by the landowner or land management agency as an OHV route</p> <p>6. In a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices</p> <p>7. In excess of 10 miles per hour within 200 feet of a business, animal shelter, horseback rider, bicyclist, pedestrian or occupied dwelling, unless the person operates the vehicle on a closed course or track.</p>
	<p>8. Unless in possession of the person's registration certificate or nonresident permit.</p> <p>9. Unless the vehicle is equipped with a spark arrester approved by the USFS, except snowmobiles are exempt.</p> <p>10. When conditions such as darkness limit visibility to 500 feet or less, unless the vehicle is equipped with a headlight good to 150 feet, at least 1 taillight to be seen for 200 feet.</p>

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Slide 29	<ul style="list-style-type: none"> 11. That produces noise that exceeds 96 decibels.
Slide 30	<ul style="list-style-type: none"> 12. Where OHV traffic is prohibited under local, state, or federal rules or regulations (USFS Travel management plan).
Slide 31	<ul style="list-style-type: none"> B. A person under the age of 18 shall not operate on OHV: <ul style="list-style-type: none"> 1. Or ride upon an OHV without wearing eye protection and a safety helmet that is securely fastened in normal manner as headgear and meets standards established by the department 2. Without an OHV safety permit (for safety classes contact Marty in PIO (505-476-8000) 3. Or while carrying a passenger.
Slide 32, 33	<ul style="list-style-type: none"> C. A person under the age of 18 but at least 10 shall not operate an OHV unless visually supervised at all times by a parent, legal guardian, or a person over 18 with a valid driver's license. This subsection shall not apply to a person who is at least 13 and has a valid motorcycle license and OHV safety permit or is 15 and has a driver's license, instructional permit or provisional license and OHV permit. D. A person under the age of 10 may not operate on OHV unless: <ul style="list-style-type: none"> 1. The ATV is an age appropriate size fit as established by rule of the department; and 2. The person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course. (Does not allow for licensed drivers 18 and over. Must be a parent or guardian.) E. An OHV shall not be sold or offered for sale if the vehicle produces noise that exceeds 96 decibels. This section does not apply to OHVs sold or offered for sale only for organized competitions F. Review Requirements according to age.
Slide 34	
Slide 35	
Pass out Regs Slide 36	<p>12.) Title 18 Chapter 15 Part 3.9</p> <ul style="list-style-type: none"> A. Deals with OHV vehicle safety standards B. Safety Certificates issued prior to 1-1-07 are valid. C. Safety Certificates issued by other states are valid
Slide 37	

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Slide 38	<p>Equipment</p> <p>D. Helmets must be DOT certified</p> <p>E. Eye protection must be safety glasses or goggles and must be fastened securely</p> <p>F. Age Appropriate Fit for ATV (does not apply to off highway motor cycles)</p> <ol style="list-style-type: none"> 1. No one under 6 can ride on public land 2. Under 10, no greater than 100cc Must be visually supervised at all times 3. 10-15, no greater than 250cc 4. 14 & 15 with DL can ride up to 450cc 5. 16 can ride over 250cc OHV
Slide 39-46	<p>G. Physical Fit Standard</p> <p>1. Physical fit standards must be met in order for a person to ride any ATV (does not apply to off highway motor cycles). Even if they meet the age standard for a certain cc machine.</p> <p>Example: a 12 year old who does not meet the physical fit standards for a 250cc machine may not operate it on public land, even though he meets the age requirement.</p>
Slide 47	<p>2. Standards</p> <ol style="list-style-type: none"> a. Clearance between seat and inseam while standing on foot pegs is 3-6 inches b. Upper legs near horizontal when seated c. Foot long enough to engage foot brake d. Grip reach allows for operating without leaning to far forward e. Throttle reach allows right hand to easily operate throttle f. Break reach fingers must go past break handle
Slide 48	<p>13.) 66-3-1010.5 Requirements of dealers to distribute safety info</p> <p>A. Dealer selling OHVs shall distribute info provided by the department to OHV purchasers on the state's laws, environmental and cultural considerations, customs, safety requirements, training programs, operating characteristics and potential risk of injury associated with OHVs</p> <p>14.) 66-3-1011 Operations on streets or highways, prohibited areas</p> <p>A. A person shall not operate an OHV on any:</p> <ol style="list-style-type: none"> 1. Limited access highway or freeway at any time <ul style="list-style-type: none"> • Limited access is any highway that limits access to on and off ramps such as the interstate.

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Slide 49	<p>2. Any paved street or highway except as provided in subsection B or this section.</p> <p>B. OHVs may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. shall yield to oncoming traffic and begin crossing only when it can be executed safely and then cross in the most direct manner as close to perpendicular angle as possible</p>
Slide 50	<p>C. Shall not operate an OHV on State Game commission owned, controlled or administered land except as specifically allowed pursuant to Chapter 17 Article 6A person shall not operate an OHV on land owned, controlled, or administered by the State Parks division of the EMNR department pursuant to Chapter 16, Article 2 NMSA except in areas designated by and permitted by rules adopted by the secretary of ENMRD as allowed by parks regulations.</p>
Slide 51	<p>D. Unless authorized, a person shall not Remove, deface or destroy any official sign installed by a state, federal, or local or private land management agency or install any OHV related sign.</p>
Slide 52	<p>15.) 66-3-1012 Driving OHV adjacent to highway</p> <p>A. An OHV with a validating sticker or non-resident permit may be driven adjacent to a highway if:</p> <ol style="list-style-type: none"> 1. They yield to other traffic 2. Only do so to gain access or return from areas designed for OHV use 3. Use the shortest possible route and there is no other route available. 4. When an area adjacent to the highway is being used as a staging area. <p>B. When snow conditions permit they may be operated on the right hand side of the highway parallel but not closer than 10 feet to the inside of the plow bank</p> <p>16.) 66-3-1013 Liability-Local Registration Prohibited</p> <p>A. Landowners are not liable for damage arising from OHV accidents occurring on their land if they are not involved or receiving payment for use.</p>

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Slide 53	<p>It is unlawful to operate an OHV on private land or roads except with permission of the landowner.</p>
Slide 54	<p>17.) 66-3-1014 Accidents and Accident Reports</p> <p>A. Accidents resulting in injury or death or damage to property over \$500 shall immediately notify a LE agency.</p>
Slide 55	<p>18.) 66-3-1015 Enforcement</p> <p>A. A Wildlife Conservation officer, State Police, or peace officer in the state or any of its political subdivisions, "Upon displaying the officer's badge of office", has authority to enforce OHV act and may require OHV operator to produce:</p> <ul style="list-style-type: none"> • Registration certificate or nonresident permit • Proof of successful completion of an OHV training course (Department Approved) • Personal Identification of the operator and <p>B. Issue citations for violations of the provisions of the OHV act</p> <p>C. Does not require that you be in uniform to enforce the act.</p> <p>D. Law specifically requires an OHV operator to show to the officer a registration certificate or non-resident permit, proof of OHV training course and the personal identification of the operator.</p>
Slide 56	<p>19.) 66-3-1017 OHV advisory board created---members---compensation</p> <p>A. The OHV advisory board is created to advise the department on matters related to administration of the OHMV act. The board shall consist of the following seven members appointed by the Governor;</p> <ol style="list-style-type: none"> 1. one landowner living near a national forest or BLM property that is used extensively for recreational OHV activity 2. one producer or one grazing permittee on public lands from the farming or livestock industry. 3. one person from the OHMV industry 4. one OHMV user 5. one hunter or angler

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Slide 57	<p>6. one quiet recreationalist, such as a hiker, backpacker, birdwatcher, equestrian, mountain biker, rock climber or archaeological enthusiast, and</p> <p>7. one member with expertise in injury prevention or treatment</p>
Slide 58	<p>20.) "66-3-1020. PENALTIES.—</p> <p>A. A person who violates the provisions of the Off-Highway Motor Vehicle Act is guilty of a penalty assessment misdemeanor (except 66-8-102 – full misdemeanor).</p>
Pass out Cheat sheet Slide 59	<p>B. A parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate an off-highway motor vehicle in violation of the provisions of the Off-Highway Motor Vehicle Act is in violation of that act and subject to the same penalty as the child operating the off-highway motor vehicle in violation of that act.</p> <p>C. As used in the Off-Highway Motor Vehicle Act, "penalty assessment misdemeanor" means violation of any provision of the Off-Highway Motor Vehicle Act for which a violator may be subject to the following:</p> <ul style="list-style-type: none"> • Class 1 Violations-list • Class 2 Violations-list • Class 3 Violations-list • Class 4 Violations-list <p>Except DUI (66-8-102) – (2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 (SB 379 pg 8, lines 2-3) = Full misdemeanor or greater. This is not a PA.</p>
Slide 60	<p>D. The penalty for second, third and subsequent violations within a three-year time period shall be increased as follows:</p> <p>(1) a second violation in a class 1 penalty category involving failure to possess a registration certificate or nonresident permit shall be increased to a class 2 penalty category;</p>

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Slide 61	<p>(2) any class 2 or class 3 violation for a second or greater infraction within a three-year period shall be increased to the next-highest penalty assessment category; and</p> <p>(3) each subsequent violation in a class 4 penalty category will result in an additional penalty of two hundred dollars (\$200).</p> <p>D. Multiple violations for the same incident shall be treated as a single event and shall not result in graduated penalties.</p>
Slide 62	<p>Reminder on Penalty Assessments for 66-8-117. Penalty assessment misdemeanors; option; effect.</p> <p>A. Unless a warning notice is given, at the time of making an arrest for any penalty assessment misdemeanor the arresting officer shall offer the alleged violator the option of accepting a penalty assessment. The violator's signature on the penalty assessment notice constitutes an acknowledgment of guilt of the offense stated in the notice.</p>
Slide 63	<p>B. Except for penalty assessments made under a municipal program authorized by Section 66-8-130 NMSA 1978, payment of any penalty assessment must be made by mail to the division within thirty days from the date of arrest. Payments of penalty assessments are timely if postmarked within thirty days from the date of arrest. The division may issue a receipt when a penalty assessment is paid by currency, but checks tendered by the violator upon which payment is received are sufficient receipt.</p> <p>C. No record of any penalty assessment payment is admissible as evidence in any court in any civil action.</p>
Slide 64	<p>D. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.</p> <p>F. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor, and probation imposed upon a suspended or deferred sentence shall not exceed ninety days</p>
Slide 65	<p>Cross out the NMDGF address on back of citation</p>

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Slide 66 Pass out Routing	Routing Citations
Slide 67	<p>G. Juveniles -- Penalty Assessment Misdemeanors—</p> <p>Consider—Competency—Case law</p>
Slide 68	<p>Case law and the legal standards defining adults' competency to stand trial are regularly applied to children (people under eighteen years' old). See, e.g. State v. Garcia, 128 N.M. 721; 2000 NMCA 14; 998 P.2d 186 (NMCA 2000); State v. Rotherham, 122 N.M. 246, 923 P.2d 1131(1996); In the Matter Of Daniel H., 133 N.M. 630, 68 P.3d 176 (NMCA 2003).</p>
Slide 69	<p>The New Mexico standard for competency to stand trial is as follows:</p> <p>"A criminal defendant is competent to stand trial if he 'understands the nature and significance of the proceedings, has a factual understanding of the charges, and is able to assist his attorney in his defense.' " Garcia, supra, and cases cited therein.</p> <p>This standard is applied to children in New Mexico.</p> <p>Criminal Procedure – District Court Rule</p> <p>5-602. Insanity; incompetency; lack of capacity.</p> <p>B. Determination of competency to stand trial.</p>
Slide 70	<p>(1) The issue of the defendant's competency to stand trial may be raised by motion, or upon the court's own motion, at any stage of the proceedings.</p> <p>(2) The issue of the defendant's competency to stand trial shall be determined by the judge, unless the judge finds there is evidence which raises a reasonable doubt as to the defendant's competency to stand trial.</p>
	<p>(a) If a reasonable doubt as to the defendant's competency to stand trial is raised prior to trial, the court shall order the defendant to be evaluated as provided by law. Within sixty (60) days after receiving an evaluation of the defendant's competency, the court, without a jury, may determine the issue of competency to stand trial; or, in its discretion, may submit the issue of competency to stand trial to a jury, other than the trial jury.</p> <p>(b) If the issue of the defendant's competency to stand trial is raised during trial, the trial jury shall be instructed on the issue. If, however, the defendant has been previously found by a jury to be</p>

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Slide 71	<p>competent to stand trial, the issue of the defendant's competency to stand trial shall be submitted to the trial jury only if the court finds that there is evidence which was not previously submitted to a jury which raises a reasonable doubt as to the defendant's competency to stand trial.</p> <p>(4) If the finding of incompetency is made during the trial, the court shall declare a mistrial.</p> <p>How do we decide?</p> <p>Determine if the juvenile understands what their signature constitutes. --You should test</p> <ul style="list-style-type: none"> 1. Acknowledgement and affirmation of Penalty Assessment Amount. 2. Signature constitutes willingness/agreement to pay 3. Have that much money or have the ability to get this amount. 4. What legal means do they have to pay? <p>H. Juveniles -- Penalty Assessment Misdemeanors—</p> <p>Consider Competency when issuing a Penalty Misdemeanor Citation to juveniles</p> <p>Determine if the juvenile understands:</p> <ul style="list-style-type: none"> ▪ The Penalty Assessment Misdemeanor Charge ▪ The significance of their signature ▪ The details of what is occurring <p>Recommendation of officer field assessment When in doubt here is a guide to assist officers in the field for assessing the juveniles understanding:</p> <ul style="list-style-type: none"> • Do you understand the violation you are being charged with? • Do you understand what your signature means when signing a penalty assessment citation? • Can you explain what just happened to your parents or others? • What legal means do they have to pay this penalty assessment misdemeanor? <p>Juvenile Generalizations normal, average ability to understand 14 YOA or older are viewed as competent to sign the penalty assessment citation.</p> <p>11-13 YOA recommend test above.</p>
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Slide 73	

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Slide 74	<p>10 YOA or younger, either issue a warning or offer the Penalty Assessment for the child through the parents or legal guardian.</p>
Slide 75	<p>If parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate an off-highway motor vehicle in violation of the provisions, they can also be offered the Penalty Assessment Option.</p> <p>Juvenile Jurisdiction and Responsibilities</p> <p>32A-2-29. Motor Vehicle Code violations.</p> <ul style="list-style-type: none"> A. The municipal, magistrate or metropolitan court shall have original exclusive jurisdiction over all Motor Vehicle Code or municipal traffic code violations when the person alleged to have committed the violation is a child, with the exception of those violations contained in Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 and all traffic offenses alleged to have been committed by the child arising out of the same occurrence pursuant to Subsection B of this section. B. If the court acquires jurisdiction over a child pursuant to any of those Motor Vehicle Code [66-1-1 NMSA 1978] violations contained in Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978, it shall have jurisdiction over all traffic offenses alleged to have been committed by the child arising out of the same occurrence. C. All traffic offenses which the child is found to have committed by the municipal, magistrate or metropolitan court or for which the child is adjudicated delinquent by the children's court shall be subject to the reporting requirements and the suspension and revocation provisions of the Motor Vehicle Code [66-1-1 NMSA 1978] and shall not be subject to the confidentiality provisions of the Delinquency Act [32A-2-1 NMSA 1978]. D. Only the children's court may incarcerate a child who has been found guilty of any Motor Vehicle Code [66-1-1 NMSA 1978] or municipal traffic code violations. <p>(History: 1978 Comp., 32A-2-29, enacted by Laws 1993, ch. 77, 58; 2003, ch. 225, 14.)</p>
Slide 76	<p>I. Child Safety Should be First</p> <p>30-6-1. Abandonment or abuse of a child.</p> <ul style="list-style-type: none"> D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be: <ul style="list-style-type: none"> (1) placed in a situation that may endanger the child's life or health;

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Slide 77	<p>(3) exposed to the inclemency of the weather.</p> <p>Inclemency means the quality of being severe or stormy; severe in temper or action.</p> <p>Can you predict the weather in the mountains or fields of New Mexico? NO</p> <p>Can you predict when the child will be picked up by parents or another designee? Not until you see them arrive.</p>
Slide 78	<p>Recommendation (dependant upon agencies policies)</p> <p>Time Limitation</p> <p>1)Officer Transport</p> <ul style="list-style-type: none"> • Home or custody of designee • Protective Services, or <p>2) Parent pickup</p> <p>Do not allow juvenile to operate in unsafe manner (no helmet & eye protection, carrying passengers, no safety permit, etc.). Do not leave a juvenile unattended.</p>
Slide 79	<p>At what point is a child free to go vs. in protective custody?</p> <p>J. Impoundment.</p> <ul style="list-style-type: none"> • Always follow your agencies allowances and restrictions. • Towing vs. Owner/Parental Consent • Contact owner/parents
Slide 78-82	<p>Try to let them determine if they will retrieve OHV and consent to responsibility of property</p> <p>If no consent of responsibility, then towing and impoundment is at owners expense and at agency/officer discretion due to assignments, emergency calls and scheduling.</p> <p>Do not leave an OHV unattended -- owner or owner designee must pick it up or it must be towed.</p> <p>22. Questions & Test Review of laws covered to determine if students can apply them to scenarios they are presented with.</p> <ul style="list-style-type: none"> A. Private land scenario B. Operator under 10 scenario C. Operator crossing roadway scenario D. Reckless Operation Scenario

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